

# EXHIBIT 1

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re: )  
)  
SECURITIES INVESTOR )  
PROTECTION CORPORATION, )  
)  
Plaintiff-Applicant, )  
)  
vs. ) 08-01789 (SMB)  
)  
BERNARD L. MADOFF )  
INVESTMENT SECURITIES, LLC, )  
)  
Defendant. )  
)  
)  
In re: )  
)  
BERNARD L. MADOFF, )  
)  
Debtor. )  
)

CONFIDENTIAL

Videotaped Deposition of BERNARD L.  
MADOFF, VOLUME IV, taken on behalf of the Customers,  
before K. Denise Neal, Registered Professional  
Reporter and Notary Public, at the Federal  
Correctional Institution, 3000 Old Highway 75,  
Butner, North Carolina, on the 9th day of November,  
2017, commencing at 8:43 a.m.

\* \* \* \* \*

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1 Q. Okay. But I guess you're saying then  
2 before that meeting you wouldn't have taken trade  
3 direction from the Sages; right?

4 MR. KRATENSTEIN: Object to form. Go  
5 ahead.

6 THE WITNESS: Depends upon whether the  
7 father was alive and he was running the account with  
8 me or -- I mean, they were accountants, the family,  
9 for a very long period of time.

10 Q. (By Ms. Chaitman) Okay. But it wasn't  
11 your typical practice to take trade direction;  
12 right?

13 A. That's correct.

14 Q. Okay. That was my -- what I was trying to  
15 get at. Okay. I'd like you to take a look at a  
16 document we reviewed yesterday, Exhibit 85.

17 MR. KRATENSTEIN: Hang on a minute.

18 MS. FEIN: Oh, sure.

19 MR. KRATENSTEIN: Okay. Go ahead.

20 Q. (By Ms. Fein) In the second paragraph we  
21 went over some language yesterday and I'd like to  
22 ask you about one sentence, but let's look a little  
23 earlier. Do you see this sentence says as of the  
24 last statements we received in March the accounts  
25 were a little off of the usual benchmark?

1 A. Correct.

2 Q. Can you read the next two sentences after  
3 that?

4 A. I can't find them.

5 Q. Oh, so the next one would be since then our  
6 main holding, eBay, has dropped significantly.

7 A. Right, okay. I see it.

8 Q. And then the next, as that holding is a  
9 long-term one, I was hoping you had shorted it  
10 against the box a while back. Do you see that?

11 A. Yes, uh-huh.

12 Q. That statement is in the past tense; right?

13 A. I was hoping you had shorted it against the  
14 box, okay.

15 Q. It's referring to something that would have  
16 happened before you got this letter; right?

17 MR. KRATENSTEIN: Objection to the form of  
18 the question.

19 THE WITNESS: Yes. I think what they're  
20 referring to is sometimes even if I had felt that  
21 they should have been sold regardless of what they  
22 had -- they were doing tax planning, obviously,  
23 shorting against the box to adjust whether they were  
24 going to get long-term gain, short-term gains and so  
25 on and depending upon when you closed out the

1 transaction, in other words, covered the short, that  
2 would trigger a tax event. So if, in fact -- again,  
3 I'm assuming because this -- you know, if, in fact,  
4 they originally wanted to keep the trade open but  
5 then there was a market event that happened, you  
6 know, then I felt that it wasn't -- it didn't make  
7 any sense to worry about the tax treatment because  
8 if they -- if I didn't go short against the box, the  
9 stock was going to go down, I would pay no attention  
10 to it.

11 Q. Right.

12 A. Technically a client could call me up and  
13 say to me, which did happen at the time, well, you  
14 shouldn't have -- you should have followed my  
15 instructions even though you would have lost money  
16 for me to do that. That's not an unusual situation.  
17 So I don't remember what happened here, but that's  
18 probably what happened.

19 Q. Okay. All right. So we can look at  
20 Exhibit 69.

21 A. Uh-huh.

22 Q. This is another of the letters we reviewed  
23 yesterday; right?

24 A. Right.

25 Q. Do you see -- it's a long sentence, but the



1 last sentence of the first paragraph, with respect  
2 to other positions in these accounts please note  
3 that Pharmacia will become long-term this January.  
4 Do you see that sentence?

5 A. Yes.

6 Q. And then do you see just under that unless  
7 you deem that these stocks must be shorted prior to  
8 these dates due to various considerations, it would  
9 be to our tax benefit that these positions not be  
10 shorted?

11 A. Right.

12 Q. That's not a direction to you about what to  
13 do with the trade; right?

14 MR. KRATENSTEIN: Object to form.

15 Q. (By Ms. Fein) In other words, this is left  
16 in your discretion; correct?

17 MR. KRATENSTEIN: Object to the form.

18 THE WITNESS: I assume that's what they're  
19 saying, right.

20 Q. (By Ms. Fein) Okay. I just want to look  
21 at two of the documents we went through. These  
22 exhibits, Exhibits 70 and 72, were looked at in  
23 connection with this same letter. And on Exhibit 70  
24 do you see an R. J. Reynolds Tobacco HLDS?

25 A. Right.

1 firm?

2 A. Yes.

3 MR. KRATENSTEIN: Thank you very much.  
4 That's all I have.

5 MS. CHAITMAN: Okay. I'd just like to put  
6 on the record the discussion that I had with Amanda  
7 that we will be continuing your deposition so long  
8 as your health continues once we get further  
9 documents from the Trustee. We're negotiating to  
10 get additional documents that we now know the  
11 Trustee has.

12 MS. FEIN: We just want to put on the  
13 record that we would reserve a right to  
14 cross-examine on any documents that Ms. Chaitman  
15 asks about.

16 MS. CHAITMAN: Of course, of course.  
17 Okay. Thank you so much. Andrew and I are going to  
18 run.

19 THE VIDEOGRAPHER: We are off the record  
20 in the November 9th, 2017 deposition of Bernard L.  
21 Madoff, Volume IV. The number of discs used was  
22 three. The time is 13:26.

23 (Reading and signing of the deposition by  
24 the witness was reserved and the deposition was  
25 concluded at 1:26 p.m.)